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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 RAYMOND GENE PHENIX,

Case No. 2:03-cv-00485-MMD-NJK

10 Petitioner,

ORDER

11 v.

12 JAMES SCHOMIG, *et al.*,

13 Respondents.
14


15 Before the Court is petitioner's second motion for evidentiary hearing and
16 appointment of counsel (dkt. no. 163). Whenever the court determines that the interests
17 of justice so require, counsel may be appointed to any financially eligible person who is
18 seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). "[T]he district court must
19 evaluate the likelihood of success on the merits as well as the ability of the petitioner to
20 articulate his claims *pro se* in light of the complexity of the legal issues involved."
21 *Weygandt v. Look*, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to
22 counsel in federal habeas proceedings. *McCleskey v. Zant*, 499 U.S. 467, 495 (1991).
23 The factors to consider are not separate from the underlying claims, but are intrinsically
24 enmeshed with them. *Weygandt*, 718 F.2d at 954. After reviewing the fourth amended
25 petition (dkt. no. 163), the Court finds that appointment of counsel is not warranted.

26 Also before the Court is petitioner's motion to reconsider (dkt. no. 171) the
27 Court's order (dkt. no. 170). Nothing in the motion to reconsider would cause the Court
28 to depart from its order.

1 IT IS THEREFORE ORDERED that petitioner's second motion for evidentiary
2 hearing and appointment of counsel (dkt. no. 163) is DENIED.

3 IT IS FURTHER ORDERED that petitioner's motion to reconsider (dkt. no. 171)
4 is DENIED.

5 DATED THIS 21st day of March 2013.

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9 MIRANDA M. DU
10 UNITED STATES DISTRICT JUDGE
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